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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,581	10/15/2003	George W. Fitzmaurice	1252.1085	2330

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EXAMINER

TRAN, HENRY N

ART UNIT PAPER NUMBER

2629

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/684,581	<b>Applicant(s)</b> FITZMAURICE ET AL.	
	<b>Examiner</b> Henry N. Tran	<b>Art Unit</b> 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12 and 23 is/are allowed.
- 6) ☒ Claim(s) 13-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The Amendment received July 18, 2006 has been entered. Claims 1-23 remain pending in this application. Applicants' Remarks have been fully considered; and this Office action is in response thereto.

#### ***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

The following claimed terms have no written descriptive support in the specification: "a pen cursor tracking graphic" (line 2 of claim 13), "a dragable graphic" and "an input cursor" (line 2 of claim 15), and "transducer input events" (line 2 of claim 18),

Correction of the above is required in response to this Office action.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites the limitation "the graphic" in line 4. There is insufficient antecedent basis for this limitation in the claim.

For the purpose of this Office action, the above identified "the graphic" is changed to --a graphic--.

Amendment to the above-identified claimed limitation is required in response to this Office action.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 15 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Sciammarella et al (U.S. Patent No. 6,097,387, hereinafter referred to as “Sciammarella”).

Regarding claim 15, Sciammarella teaches a graphical user interface (300), comprising: a draggable graphic (318) (“a display screen 318”) draggable by an input cursor (316) and that is used to interpret events associated with the input cursor as computer mouse events, e.g., clicking on the mouse button to move the cursor (316) for dragging the display screen (318); see figures 7 and 8.

Regarding claim 21, Sciammarella further teaches that the draggable graphic (318) itself is draggable by the input cursor (316) controlled by an input device (202).

7. Claims 13-15, 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Berman et al (U.S. Patent No. 5,760,773, hereinafter referred to as “Berman”).

Regarding claim 13, Berman teaches a graphical user interface, comprising: a pen cursor tracking graphic for providing mouse pointing and mouse button emulation (e.g. Berman fig. 5 shows a calendar item 42 and an action handle 40, which is being pointed, dragged and dropped

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with a pen 12 for providing mouse pointing and mouse button clicking, see also, col. 15, lines 8-27.

Regarding claim 14, Berman further teaches that the graphic provides an appearance of button controls; see fig. 1, and col. 28, lines 30-31 (“button is an action handle”).

Regarding claim 15, Berman, Fig. 5, teaches a graphical user interface, comprising: a draggable graphic (42) (“a calendar item 42”) draggable by an input cursor (40) (“an action handle 40”) and that is used to interpret events associated with the input cursor as computer mouse events; see col. 15, lines 8-27, and line 57 to col. 16, line 13.

Regarding claim 21, Berman further teaches that the draggable graphic (42) itself is draggable by the input cursor (40) controlled by an input device (12) (“a stylus 12”), see Fig. 5.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 16-19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over “Berman”.

Regarding claims 16 and 17, Berman teaches a graphical user interface apparatus and method, comprising: producing a graphical user interface (40) (“an action handle 40”) on a display (18); moving a graphic (42) (“a data object 42”) on the display as a tracking menu responsive to movement of a pen (12); and interpreting input events initiated by the pen as

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mouse events, see Figs. 1 and 5. Although Berman does not teach expressly that the graphic user interface having an appearance of a computer mouse; However, Berman does teach that (i) a different graphic symbol or icon indicate the nature of the associated item could be used for the action handle, see col. 14, lines 36-39; (ii) action handle used the mouse buttons instead of pop up or context menu; and (iii) button is an action handle; see col. 28, lines 38-42.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the graphic symbol that has an appearance of a computer mouse for the Berman action handle graphical user interface because this would provide an improved graphical user interface that is user friendly for enhancing the functional operations of the interface. By this rationale, claims 16 and 17 are rejected.

Regarding claims 18 and 19, which recite a computer readable storage controlling a computer by producing tracking menu or a graphical user interface on a display that has an appearance of a computer mouse for performing the method steps of claim 16. Berman teaches a computer program stored in a memory (21) executed by a computer (20) for performing the method steps of claim 16; see Figs. 1 and 14. Claims 18 and 19 are therefore rejected on the same basis set forth for claims 16.

Regarding claim 22, Berman further teaches that moving the graphic (42) on the display (18) as a tracking menu (a calendar item 42) responsive to cursor (42) that is responsive to the movement of a pen (12), see Fig. 1 and 5. Claim 22 is dependent upon the base claim 17; and is therefore rejected on the same basis set forth in claim 17, and by the reasons noted above.

*Allowable Subject Matter*

10. Claims 1-12 and 23 are allowed.

*Response to Arguments*

11. Applicants' amendments to the Specification and the drawing of figure 35 have overcome the objections recited in sections 3 and 4 of the prior Office action mailed 4/18/06.

12. Applicants' arguments with respect to the rejections of claims 13-19 filed 7/18/06 have been fully considered but they are not persuasive because of the following reasons:

(i) Regarding claim 15, the Applicants' argued that the prior art, the Sciammarella patent (U.S. Patent No. 6,097,387), does not teach a graphic that is draggable. The Examiner respectfully disagrees because: (i) firstly, the claimed term "a draggable graphic" has no clear written definition support in the specification or in the claim; see the discussion in section 2 above; (ii) secondly, Sciammarella does teach the graphic 322, which is draggable to provide a tracking menu 324 by using a cursor 316 to perform a panning operation to pull down the submenu 324, see Sciammarella Fig. 4, and col. 43-51; and (iii) lastly, the claimed term is given its broadest reasonable interpretation; accordingly, the graphic 322/324 is properly read on said claimed limitation. It's noted that the applicants' newly added claim 21 has further define the limitation "the draggable graphic", the Examiner has used another Sciammarella draggable graphic 318 to read on the claimed limitation; see the discussion in section 6.

(ii) Regarding claims 13 and 14, the Applicant argued again that the prior art, the Berman et al patent (U.S. Patent No. 5,760,773), does not teach a pen cursor tracking graphic for providing mouse pointing and mouse button emulation. The Examiner respectfully disagrees again because (i) firstly, the claimed term "a pen cursor tracking graphic" has no clear written

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definition support in the specification or in the claim; see the discussion in section 2 above; (ii) secondly, Berman, fig. 5, does teach a pen cursor tracking graphic for providing mouse pointing and mouse button emulation (a calendar item 42 and an action handle 40, which is being pointed, dragged and dropped with a pen 12 for providing mouse pointing and mouse button emulation; see the discussion in section 7 above; and (iii) lastly, the claimed term is given its broadest reasonable interpretation; accordingly, the calendar item 42 and the action handle 40 are properly used to read on the limitation “a pen cursor tracking graphic”).

(iii) Regarding claim 15, the Applicants argued again that the prior art, the Berman et al patent does not teach a draggable graphic, which is draggable with the cursor. The Examiner respectfully disagrees again because Berman, Fig. 5, does teach a draggable graphic (42) which is draggable by an input cursor (40); see the discussion in section 7 above.

(iv) Regarding claim 16, the Applicants argued that the prior art, the Berman et al patent provide no motivation to modify his teachings to provide a mouse graphic. The Examiner agrees; however upon learning the teachings of utilizing a different graphic symbol or icon indicate the nature of the associated item for the action handle as taught by Berman;; one of an ordinary skill in the art would have been motivated to modify the Berman action handle graphic symbol for having an appearance of a computer mouse; and the motivation to do so found in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992); see the discussion in section 9 above.

(v) Regarding claims 17-22, which are rejected as discussed in sections 6, 7 and 9 above.



***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

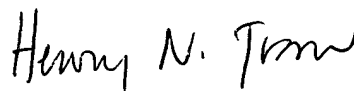
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry N. Tran whose telephone number is 571-272-7760. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RICHARD A. HJERPE can be reached on 571-272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Henry N Tran  
Primary Examiner  
Art Unit 2629

HT  
9/19/06